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PRACTICE LIMITED TO MATTERS BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

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September 21, 1998

**RECEIVED**

**SEP 23 1998**

Federal Communications Commission  
Office of Secretary

Ms. Magalie Salas  
Secretary  
The Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554


RE: Formal Comments of  
Avon Broadcasting Company  
Avon, North Carolina (Channel 294A)  
MM Docket No. 98-152 (RM-9338)

Dear Ms. Salas:

Transmitted herewith, on behalf of Avon Broadcasting Company, through counsel, is an original and six (6) copies of its "Formal Comments." in the FM Rule Making Proceeding for Channel 294A at Avon, North Carolina.

Should any questions arise concerning this matter, kindly contact the undersigned, directly.

Respectfully submitted,

By:   
Richard J. Hayes, Jr., Esquire  
Counsel to: Avon Broadcasting Company

RJH:tb  
Enclosures

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**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

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**Federal Communications Commission  
Office of Secretary**

In the Matter of:	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 98-152
Table of Allotments,	)	RM-9338
FM Broadcast Stations.	)	
Avon, North Carolina	)	
Channel 294A	)	

To: Chief, Allocations Branch:

**FORMAL COMMENTS OF  
AVON BROADCASTING COMPANY**

Comes Now, Avon Broadcasting Company, through counsel, with Formal Comments in the above-captioned Rule Making Proceeding.

On August 21, 1998, the Federal Communications Commission released a "Notice of Proposed Rule Making" which acknowledged that Avon Broadcasting Company requested the allotment of Channel 294A to Avon, North Carolina as that community's first local aural service. The NPRM stated that petitioner's proposal warranted consideration if it is determined that Avon is a community for allotment purposes. Accordingly, the Notice directed the petitioner to present the Commission with sufficient information to demonstrate that Avon is a community for allotment purposes. The following information will assist the Commission in reaching the conclusion that Avon, North Carolina is a "community" for allotment purposes.

Avon, North Carolina is a distinct, identifiable town. It is centrally located on Hatteras Island, Dare County, North Carolina. From an economic perspective, there are ninety-seven (97) businesses which identify solely with the town of Avon according to the Dare County Tax Assessor's Office. A large majority of these businesses are small businesses which rely upon the residents of Avon for their existence and profit. In addition to these small businesses, larger firms have also chosen Avon as their primary location in the region. These larger businesses include well-known companies such as Food Lion and Ace Hardware. Economically, Avon is a tourist and fishing community and a number of its businesses are tourist related but are, nevertheless, significant businesses which sustain the local population.

Avon is an actual town on Hatteras Island. By contrast, Hatteras Island is an identifiable *place* on the map but Hatteras Island has no indicia of a town or of a community. Socially, there is a significant distinction among the residents regarding the towns in which they live. No one claims to be a resident of Hatteras Island, for instance. One would be expected to say that he/she is a resident of Avon or Buxton or Frisco. Each town is distinct with its own local problems and concerns. Each town is also fairly isolated from other towns on the Island.

As noted in footnote one of the subject NPRM, "...Avon is listed in the 1998 Rand McNally Commercial Atlas and is attributed with a full-time population of 550 persons" and a seasonal (approximately 7 months per year) population of 1,500 persons. It is certainly a lot more than a mere geographical location. It is home to hundreds of people! According to the Dare County Chamber of Commerce, the 1990 full-time population of Avon is 29% higher than the number reflected in the Rand McNally Atlas. The Chamber finds the population of Avon to be 710 persons. According to the Dare County Tax Assessor's Office, there are 1,170 single-family homes in Avon, North Carolina. Certainly, this is a sizable housing base for a small town!

It should be noted that Dare County keeps separate records for the town of Avon with regard to population, housing, businesses and community services; it is a distinct community. Avon is a "town" but it is not separately incorporated. No town or village on Hatteras Island is separately incorporated according to the Dare County Tax Office. Avon, however, is one of the two largest towns in the region. It's commercial and population base continue to grow and there is absolutely no indication that Avon will be incorporated separately or absorbed into any other town.

Avon is isolated from other towns on Hatteras Island. Salvo is approximately 25 miles north of Avon and the two towns are separated by 25 miles of uninhabited beach and wetland areas. The town south of Avon is Buxton. Buxton is approximately 15 miles away and there is nothing between the two towns, at all, except for National Park Service lands, wetlands and beaches. Avon is a distinct, separate town. Its physical location is such that the people who live there, work there and own businesses there regard it as a distinct community which survives on its own without social, cultural or private economic interdependence on neighboring towns. Avon is, most assuredly, not part of any other town or community.

There is no local media on Hatteras Island although there is one radio station licensed to the Village of Hatteras, some 40 highway miles south of Avon. Hatteras, a village on Hatteras Island, is not separately incorporated, either. The Hatteras Village radio station rebroadcasts all of the programming from its commonly owned Nags Head, North Carolina radio station, a community some 60 miles north of Avon with a transmitter in Englehard, a town on the mainland. Consequently, the residents of Avon do not have any medium to turn to in times of natural disaster. This summer, as the Commission is aware, hurricane Bonnie brushed the Outer Banks of North Carolina and all of Avon was under mandatory evacuation. Thousands of people made their way up the highway to safer ground and had no local information to guide them through the evacuation until they arrived in Nags Head, Kitty Hawk or Manteo. During storms, local conditions in Avon can become quite treacherous and the media to the north might never learn of the problems until much, much later. Simply put, the stations in the north serve the needs of Nags Head and Kitty Hawk and Manteo, communities more than fifty miles distant from Avon. Avon is as distant from Nags Head as Washington is distant from Baltimore! Undoubtedly, Avon's residents and visitors need their own local medium of mass communications on a daily basis; not just during times of emergency or natural disaster.

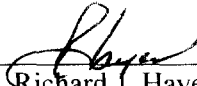
Avon also enjoys separate local services such as its own Post Office and zip code (27915). Other towns on Hatteras Island have their own Post Offices. Avon has its own Fire Department. Similarly, other towns have their own fire departments on Hatteras Island. The Kinnakeet United Methodist Church and the Avon Worship Center are also located in Avon. Police services are provided by the Sheriff's Department of Dare County.

To summarize, Avon is a distinct community in the real sense as well as for allotment purposes. It has social, economic and cultural indicia which identify solely with Avon. As an unincorporated town within Dare County, it relies on the county for its government administration although it sends delegates to the county seat in distant Manteo to represent the local residents. Avon is geographically isolated from other towns on Hatteras Island requiring the residents of Avon to come together as a community for social, cultural and economic purposes. No town or village on Hatteras Island is incorporated and this, together with the fact that Avon is not a census designated place, should not operate to deprive the 710 full-time residents and 97 businesses of a first local aural service. Avon may be small but its residents have needs which can be better addressed by a local medium of mass communications. At present, there is no local medium of any kind. Avon's growth, character and future as a town depends upon its ability to communicate with its own residents. The safety of Avon's residents can be greatly

enhanced with a local broadcast outlet. The Commission has awarded towns of much smaller size with local broadcast allotments. Avon merely wants the opportunity to continue to grow and, to do so, must have a local broadcast outlet as it moves into the next millenium.

For the reasons stated above, Avon Broadcasting Company respectfully requests that the Federal Communications Commission acknowledge that Avon is a "community" for allotment purposes and that it allot channel 294A to Avon, North Carolina, as requested by the petitioner. Avon Broadcasting Company hereby restates its interest in the allotment and advises that should the FCC allot channel 294A to Avon, North Carolina, it will submit an application for the new, local broadcast outlet. If it is awarded a construction permit for the facility, it will promptly commence construction of the station.

Respectfully submitted,  
AVON BROADCASTING COMPANY

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Its Attorney

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